

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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2024:PHHC:026928

**RSA-1184-1991 (O&M)
Date of decision: 27.02.2024**

GURDIT SINGH

..Appellant

Versus

RAJ KAUR & ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. S.S. Khaira, Advocate
for the appellant.

Mr. B.S. Baath, Advocate
for respondent No.1.

ANIL KSHETARPAL, J(Oral)

1. In this regular second appeal, the correctness of findings of fact arrived at by the Courts below is assailed by the defendant. Smt. Raj Kaur, the plaintiff is daughter -in-law of the appellant Sh. Gurdit Singh. Late Sh. Khajan Singh son of Sh. Gurdit Singh was murdered on 09.08.1982. Sh. Khajan Singh was owner of 1/20th share in the land measuring 468 kanal and 7 marlas i.e. 23 kanal and 8 & ½ (half) marlas. Smt. Raj Kaur being widow filed a suit for joint possession of 23 kanal and 8 & ½ (half) marlas. She claimed that the defendants are wrongly claiming that Sh. Khajan Singh left behind a Will. Previously, Sh. Gurdit Singh filed a suit for declaration that he is entitled to all benefits on account of death of Sh. Khajan Singh, who was serving in Indian Army. In the aforesaid suit, Sh. Gurdit Singh claimed estate of Sh. Khajan Singh on the basis of a Will dated 28.07.1982, however, the Court disbelieved the Will.

2. Moreover, the defendants while contesting the suit claimed that Sh. Khajan Singh executed a Will on 28.07.1982 and Sh. Khajan Singh was

murdered by Smt. Raj Kaur, Sh. Santokh Singh and Sh. Bakshish Singh, her

brothers. In a murder case, Sh. Santokh Singh and Sh. Bakshish Singh were convicted, but Smt. Raj Kaur was never challaned as an accused. In the High Court, Sh. Bakshish Singh was convicted, however, the conviction of Sh. Santokh Singh was upheld.

3. Both the Courts on appreciation of evidence came to conclusion that the validity of Will stands already decided by judgment and decree dated 25.03.1986 and the same operates as *res judicata*. Thus, the plaintiff's suit was decreed.

4. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook along with requisitioned lower Court record.

5. The learned counsel representing the appellant submits that Smt. Raj Kaur was not maintaining cordial relations with Sh. Khajan Singh and when he came to the village in holidays, he was murdered by her brothers on her abetment. He submits that under Section 25 of the Hindu Succession Act, 1956, she stood disqualified from inheritance and this issue has not been framed by the Court. He further submits that though, the police did not charge Smt. Raj Kaur, however, she cannot claim the property being disqualified.

6. This Court has considered the submissions of the learned counsel representing the parties.

7. It is an admitted fact that Smt. Raj Kaur was never tried for the murder of her husband. Before the Civil Court, no evidence to prove that Smt. Raj Kaur was instrumental in the murder of her husband, has been led.

With regard to the validity of the Will, the previous suit filed by Sh. Gurdit

Singh has already been dismissed, wherein, Sh. Gurdit Singh failed to prove the Will.

8. Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.

9. Dismissed accordingly.

10. All the pending miscellaneous applications, if any, are also disposed of.

February 27th, 2024
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No